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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,182	09/28/2000	Antoine Drouot	PHF 99.584	9178

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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BRIARCLIFF MANOR, NY 10510

EXAMINER	
MACKOWEY, ANTHONY M	
ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/672,182	Applicant(s) DROUOT, ANTOINE	
	Examiner Anthony Mackowey	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: *1-6,8 and 9*.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

JINGGE WU
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant's arguments filed July 19, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Jayant fails to provide any teaching, suggestion or motivation to incorporate a determination of the number of type of pixels in a defined neighborhood as is recited in the claims, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). The references of Jayant and Grupta teach all the elements of the applicant's claimed invention. The two references are also clearly related to one another in that they both seek to reduce noise and artifacts in video image signals. Thus, the combined teachings of Jayant and Grupta, and their related problem to be solved, would have suggested the claimed invention to one of ordinary skill in the art at the time the invention was made.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both Jayant and Grupta relate to the art of image processing, more specifically, reducing noise and artifacts in video image signals (Jayant, col. 3, lines 64-67; Grupta, col. 2, lines 14-18). Examiner also notes an object of the applicant's invention is "processing picture data resulting in a picture of better quality and highly removed artifacts." (page 2, lines 8 and 9). Thus the teachings of Jayant and Grupta and applicant's invention are directly related in that they are concerned with artifact reduction. Grupta teaches such a filtering method is desirable because it cleans up an area next to edges to the maximum extent possible without smearing the edges, resulting in clean sharp edges which are critical to the perceived image quality (col. 4, lines 54-57).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). The Examiner again notes that both Jayant and Grupta are concerned with processing images to reduce blocking artifacts while preserving image texture (Jayant, col. 3, lines 64-67, col. 4, lines 30-32; Grupta, col. 6, lines 44-61) and are therefore related art. Furthermore, filtering images without smearing edges in order to maintain perceived quality would have been an obvious goal to one of ordinary skill at the time the invention was made as can be seen in the teachings of Jayant and Grupta. Therefore, the conclusion of obviousness for the combination of Jayant and Grupta is not improper hindsight reasoning.

The Examiner's has shown that the combination of Jayant and Grupta is valid for the reasons discussed above. The combined teachings show that it would have been obvious to one of ordinary skill in the art at the time the invention was made to filter a pixel if the number of edge (and non-edge) pixels in a defined neighborhood of the pixel lies within a defined range as taught by Gupta in order to ensure that at least a certain number (three) of pixels in the current window are edge (or non-edge) pixels so that a continuous line of non-edge pixels may exist through the window, and to prevent a situation where any one-dimensional filter along any possible axis through the current window from including an edge pixel (column 21, line 29-37), thus preventing smearing of edges and maintaining the perceived quality of the image.